

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By **VICE CHAIRMAN LARRY LEHMAN**, on February 14, 2003 at 3:15 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Larry Lehman, Vice Chairman (R)
Rep. Norman Ballantyne (D)
Rep. Gary Branae (D)
Rep. Nancy Fritz (D)
Rep. Carol Gibson (D)
Rep. Verdell Jackson (R)
Rep. Bob Lake (R)
Rep. Bob Lawson (R)
Rep. Joe McKenney (R)
Rep. Clarice Schrumpf (R)
Rep. Pat Wagman (R)

Members Excused: Rep. Joan Andersen, Chairman (R)
Rep. Norma Bixby (D)

Members Absent: None.

Staff Present: Eddy McClure, Legislative Branch
Mari Prewett, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp in these minutes appears at the end of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: SB 96, 2/11/2003; HB 573, 2/11/2003
Executive Action: None

HEARING ON SB 96

Sponsor: SEN. SAM KITZENBERG, SD 48, Glasgow

Opening Statement by Sponsor:

SEN. KITZENBERG provided the Committee with two handouts prior to the beginning of the hearing. Exhibit 1 was a copy of SB 96 in its original form, with supporting documentation for the bill. Exhibit 2 was a letter from Bob Vogel, Montana School Boards Association in support of SB 96.

EXHIBIT (edh33a01)

EXHIBIT (edh33a02)

SEN. KITZENBERG stated that SB 96 was an optional four-day school bill. He continued that the option provided by the bill would not take place until the local school district decided to implement the plan. **SEN. KITZENBERG** remarked that SB 96 was a proactive bill that would look at ways to allow school districts to cut costs; not teachers or programs. **SEN. KITZENBERG** explained to the Committee that SB 96 was a local control option for school boards. He went on to point out the various areas in which school districts could cut costs and still maintain high quality education. **SEN. KITZENBERG** discussed the advantages to school districts of having the ability to choose this option. He remarked that the plan talked in terms of hours, not days, and urged support for the bill.

Proponents' Testimony:

Mike Barrett, Helena spoke in support of SB 96.

James McKee, Polson High School, Polson spoke in support of SB 96. He continued that having a four-day school week would be very beneficial to their school district and explained why. He pointed out that they did have one small concern and offered an amendment to Section 3, 20-1-304, Pupil-Instruction-Related Day. He went on to say that their concern was with the maximum of seven pupil-instruction-related days. **Mr. McKee** proposed the following amendment; "For purposes of State funding" at the beginning of the sentence "a maximum of seven pupil-instruction-related days may be conducted during a school year." **Mr. McKee** informed them that this would allow the school districts more flexibility in the number of ways that they could schedule professional development days. **Mr. McKee** asked the Committee to support SB 96.

Darrell Rud, Executive Director, School Administrators of Montana, stated he was there in support of SB 96. He remarked that SB 96 would provide the school districts with flexibility, options and local control. He continued that if a school district wanted to provide high quality professional development, they would have additional mechanisms to do so. **Mr. Rud** pointed out that this plan would give all school districts a chance to offer high quality professional development in some unique ways. He urged support of SB 96.

Jeff Weldon, Chief Legal Counsel, Office of Public Instruction (OPI), spoke in support of SB 96. **Mr. Weldon** pointed out that OPI felt that the Trustees are in a better position to understand the needs of their school districts and what would work best for them.

Dave Puyear, Montana Rural Education Association (MREA), stated that MREA strongly supports SB 96. He spoke of the flexibility the bill would provide for the rural schools around the State. He pointed out that it could possibly allow for more focus on academics.

Bruce Messinger, Superintendent of Schools, Helena, stated his support for SB 96 and affirmed the testimony of the previous proponents. He pointed out that the bill would allow the schools some flexibility. He continued speaking about the challenges the school districts face due to present regulations.

Eric Feaver, MEA/MFT, remarked that SB 96 was a good bill and that he hoped the Committee would pass the bill. He went on to say that MEA/MFT would like to work with the Committee on the amendment suggested by James McKee.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BALLANTYNE asked SEN. KITZENBERG if three schools in a district opted for the program would all of the schools in the district have to follow suit. **SEN. KITZENBERG** replied that it could be worked out, as the plan allows for flexibility.

REP. LAKE asked SEN. KITZENBERG if he envisioned the program being a set extended day throughout the year or a program that could change. **SEN. KITZENBERG** answered that he would leave the details to the local school boards. He explained that originally he had envisioned five days with four extended days. He went on

to say that he had no problem with working with the amendment that had been suggested in order to clarify the bill.

REP. FRITZ asked **SEN. KITZENBERG** if the bill was reducing the number of days for students to four days by increasing the number of minutes in a day. **SEN. KITZENBERG** replied that was correct.

REP. FRITZ then asked **SEN. KITZENBERG** if although the students would have a four-day week, would the teachers still be working five days? **SEN. KITZENBERG** explained that everyone would have five days. However, it would depend on how the program was set up by the individual school district. He pointed out that the students would put in the equivalent of five days in four days and would then have the opportunity to have the day off, go to their job or do sports activities.

REP. FRITZ stated she saw what the students would be doing but she wanted to know what the teachers would be doing; would they be spending the same amount of time with the students and then have to work an additional day. **SEN. KITZENBERG** deferred to **Eric Feaver** for the answer to the question. **Eric Feaver** referred **REP. FRITZ** to the bill on Page 2 where the pertinent information could be found related to her question. He continued that the bill addressed the duty day, the duty week and the duty year specifically.

REP. LAWSON asked **SEN. KITZENBERG** what his research showed in regard to how the parents would react to a four-day school week. **SEN. KITZENBERG** responded that it was a concern, especially in some family situations, but he felt that it could be worked out.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 29.9}

REP. GALVIN-HALCRO asked **Eric Feaver** if it was possible for a school district to make Friday the teachers' preparatory day so they would not have prep time during the regular school day. **Mr. Feaver** replied he felt it was a matter of flexibility for the school districts. He continued that it would have many hoops to jump through before anything could happen.

REP. WAGMAN asked **SEN. KITZENBERG** if it would be possible, under this bill, to split the students and school year in half and have eight-hour days, thereby reducing staff and saving on costs. **SEN. KITZENBERG** answered that there were safeguards built in; one being the local school board. He went on to say that he did not think that they would do anything radical without getting some parental, student and teacher input. **SEN. KITZENBERG** stated that whatever programs were implemented would have to be within reason.

REP. WAGMAN asked SEN. KITZENBERG if having a split year would be a possibility. **SEN. KITZENBERG** stated there was a remote possibility, but did not think that it would happen.

REP. GALVIN-HALCRO asked SEN. KITZENBERG if this program could be used to extend the school year to a year-round school year. **SEN. KITZENBERG** replied that it could.

REP. LEHMAN asked SEN. KITZENBERG about the 20 percent savings in transportation costs. He asked if the bus drivers would be paid for one less day, or would it be only a savings in terms of fuel costs, and wear and tear on the buses. **SEN. KITZENBERG** answered that there would be a reduction as there would be one less day of travel for the buses. He continued that there would also be one less day of fuel. **SEN. KITZENBERG** pointed out that one of the provisions was that these types of questions would be negotiated.

REP. LEHMAN further asked SEN. KITZENBERG if the same question would apply to custodians, school lunch staff and support staff to save costs. **SEN. KITZENBERG** replied it was a possibility but would have to be negotiated.

Closing by Sponsor:

SEN. KITZENBERG reiterated that he felt the bill had merits. He went on to say that the bill did have some negative stings to it. **SEN. KITZENBERG** stated that anytime funding cutbacks were made there would be obstacles to get over. He pointed out that the bill would provide flexibility, options, local control and opportunities for schools. He asked for a favorable response to SB 96.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 8.6}

HEARING ON HB 573

Sponsor: **REP. JOHN PARKER, HD 45, Great Falls**

Opening Statement by Sponsor:

REP. PARKER stated that this was a constituent bill, and had been brought to his attention by a student at the University of Montana Law School. He went on to say that the bill concerned situations where a student with diabetes would pass out in the classroom due to their blood sugar level being too low and thereby need an injection of glucagon. **REP. PARKER** pointed out that what HB 573 would do is enable a parent or guardian to

designate an employee within the school district to be the person to administer the injection of glucagon. He explained that the statute required the person selected to undergo training. The statute would also relieve the person from civil liability for ordinary negligence. **REP. PARKER** continued that the bill would also relieve the school district from liability for ordinary negligence. **REP. PARKER** provided an amendment for the bill that had been proposed by Sandy Butler, Executive Director, Montana Nurses Association, attached as Exhibit 3, which he supports. **REP. PARKER** explained the purpose of the amendment was to cross-reference the statutory definition, requiring a healthcare professional be the person to provide the training for the individual chosen to administer the injection of glucagon.

EXHIBIT (edh33a03)

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. LAKE asked **REP. PARKER** to explain the meaning of "ordinary negligence." **REP. PARKER** replied that ordinary negligence concerned a deviation from a reasonable standard of care. He explained that the bill, if enacted into law, would exempt the parent-designated person and the school district from liability for ordinary negligence. **REP. PARKER** went on to explain about gross negligence and what would happen in the event it were to occur.

REP. LAKE asked **REP. PARKER** if the term "ordinary negligence" would need to be described within the bill so that people would understand it. **REP. PARKER** responded that he did not believe there was a need to define the term, and continued by explaining his reasons why.

Jeff Weldon, OPI, was asked if he could shed further light on the subject in question. **Mr. Weldon** stated that "negligence" was defined in statute and, therefore, he did not feel that it would need to be defined in the bill.

REP. LAKE asked **REP. PARKER** if there was a better term that could be used. **REP. PARKER** replied that he did not believe so.

REP. WAGMAN asked **REP. PARKER** if the medical community would allow uncertified persons to administer glucagon in Montana.

REP. PARKER stated he was not aware of any problem.

REP. WAGMAN stated that he felt more research should be done to ascertain if what the bill was proposing would be legal.

REP. WAGMAN asked Sammi Butler, Montana Nurses Association, if someone who was not certified could administer glucagon by injection. **Ms. Butler** responded that she did not have the answer. She continued that there were delegation rules that were set forth by the Board of Nursing, and that in certain settings, the giving of medications was allowed to be delegated.

REP. WAGMAN deferred his question to Barbara Swehla, Executive Director, Montana State Board of Nursing. **Ms. Swehla** stated that the bill was a parent-driven bill, and as such, the Board of Nursing did not have a position on the bill. She continued that since the bill used the language "parent-driven", and the parent worked with an appropriate healthcare professional, it would not be something that the Board of Nursing would take issue on.

REP. LEHMAN asked **REP. PARKER** if he was aware of any other particular illness or diseases that might require additional action by the Legislature to widen the scope of this bill. **REP. PARKER** stated he was not aware of any other illnesses that would affect the bill. **REP. PARKER** deferred to **REP. WAGMAN** for further answer. **REP. WAGMAN** replied that it could broaden, and explained some circumstances that could apply.

REP. LEHMAN asked **REP. GALVIN-HALCRO** if the schools still had the policy in affect that they could not even dispense aspirin to students. **REP. GALVIN-HALCRO** responded that was still true.

{Tape: 1; Side: B; Approx. Time Counter: 8.6 - 28.3}

Closing by Sponsor:

REP. PARKER stated that the bill was addressing a serious situation wherein a student could possibly die without help. He felt HB 573 was a good bill and asked for their support in passing the bill.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 0.9}

ADJOURNMENT

Adjournment: 4:17 P.M.

REP. JOAN ANDERSEN, Chairman

MARI PREWETT, Secretary

JA/MP

EXHIBIT (edh33aad)